

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

CLARA ROSEBUD JACKSON and  
DWAYNE JACKSON,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

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No.: 3:13-cv-00420-GPM-DGW

**COMPLAINT**

**COUNT I**

COMES NOW plaintiff, Clara Rosebud Jackson, by and through her attorneys, Staci M. Yandle and The Law Offices of Staci M. Yandle, LLC, and for her cause of action against defendant, United States of America, states as follows:

1. This suit is brought with the United States of America as a defendant, pursuant to the terms of 28 U.S.C. §1346(b)(1) and The Federal Tort Claims Act (28 U.S.C. §2671, et. seq.) and this Court has subject matter jurisdiction pursuant to these statutes.

2. Pursuant to The Federal Tort Claims Act, 28 U.S.C. §2671-2680, plaintiff filed an administrative claim on August 8, 2012. A copy of plaintiff's Form 95 is attached hereto and incorporated herein by referenced as "Exhibit A".

3. More than six months has elapsed since the filing of plaintiff's administrative claim and, therefore, plaintiff's claim is deemed denied pursuant to 28 U.S.C. 2675(a).

4. At all times relevant herein, plaintiff, Clara Rosebud Jackson, is and has been a resident of Illinois.

5. Verna Porter, M.D., is a physician, and at all times relevant herein was acting within the scope of her deemed employment with the United States of America as an employee of Southern Illinois Healthcare Foundation, Inc. and the United States Public Health Service.

6. Southern Illinois Healthcare Foundation, Inc., at all times relevant herein was a healthcare service provider for the United States of America through the United States Public Health Service.

7. Plaintiff, Clara Rosebud Jackson, was, at all relevant times, including on April 13, 2011, a patient of Verna Porter, M.D.

8. Verna Porter, M.D. was, at all relevant times, a physician licensed to practice medicine in the State of Illinois and practicing in the field of obstetrics and gynecology.

9. Verna Porter, M.D. was, at all relevant times, acting as an agent, employee or servant of Southern Illinois Healthcare Foundation, Inc.

10. On or about April 13, 2011, plaintiff, Clara Rosebud Jackson, was admitted to Gateway Regional Medical Center in Granite City, Illinois for a total abdominal hysterectomy. Said procedure was performed by Verna Porter, M.D.

11. At all times relevant herein, it was the duty of the United States of America, by and through Verna Porter, M.D., and Southern Illinois Healthcare Foundation, Inc., to provide competent medical and professional services to plaintiff, Clara Rosebud Jackson.

12. In attending to the plaintiff, Clara Rosebud Jackson, defendant, United States of America, by and through Verna Porter, M.D. and Southern Illinois Healthcare Foundation, Inc., failed to exercise the degree of skill and care normally exercised by reasonably well qualified obstetricians practicing in Granite City, Illinois and similar communities in one or more of the following respects:

- a. Failed to identify and isolate Clara Rosebud Jackson's ureters prior to performing a total abdominal hysterectomy for uterine fibroids on April 13, 2011;
- b. Failed to conduct an appropriate inspection for damage or obstruction to Clara Rosebud Jackson's ureters at the close of the surgical procedure on April 13, 2011; and
- c. Was otherwise careless and negligent.

13. As a direct and proximate result of one or more of the foregoing negligent acts and/or omissions by the defendant, United States of America, by Verna Porter, M.D. and Southern Illinois Healthcare Foundation, Inc., plaintiff, Clara Rosebud Jackson has sustained severe and disabling injuries including, but not limited to an injury to her left ureter, hydroureter and hydronephrosis; she was required to undergo a left nephrectomy and developed post-nephrectomy abscesses.

14. As a further and direct proximate result of one or more of the foregoing negligent acts and/or omissions of the defendant, United States of America, by and through Verna Porter, M.D., and Southern Illinois Healthcare Foundation, Inc., plaintiff, Clara Rosebud Jackson has suffered repeated pain and suffering and mental distress; she has incurred medical expenses and will in the future continue to incur additional medical expenses; she has lost great sums from her usual occupation and will continue to lose additional sums in the future; and plaintiff's opportunity to participate in ordinary activities and ability to enjoy life have been adversely affected.

15. Plaintiff's counsel has obtained a consultation as required by 735 ILCS 5/2-622(1) and an Affidavit and Report to that effect are attached hereto and marked as "Exhibit B", and incorporated by reference herein.

WHEREFORE, plaintiff, Clara Rosebud Jackson, prays for judgment against the defendant, the United States of America, in the amount of Twenty Million Dollars (\$20,000,000.00), plus costs of suit.

### **COUNT II – LOSS OF CONSORTIUM**

COMES NOW plaintiff, Dwayne Jackson, by and through his attorneys, The Law Offices of Staci M. Yandle, LLC and for his Complaint against the defendant, United States of America, states as follows:

1-15. He repeats and re-alleges the allegations contained in paragraphs 1-15 of Count I as paragraphs 1-15 of this Count.

16. Pursuant to The Federal Tort Claims Act, 28 U.S.C. §2671-2680, plaintiff, as the husband of Clara Rosebud Jackson, filed an administrative claim on August 12, 2012. Plaintiff's Form 95 is attached hereto and incorporated herein by reference as "Exhibit C".

17. More than six months has elapsed since the filing of plaintiff's administrative claim and, therefore, Plaintiff's Claim is deemed denied pursuant to 28 U.S.C. 2675(a).

18. At all times mentioned herein, plaintiff, Dwayne Jackson, was the husband of plaintiff, Clara Rosebud Jackson, and as such was entitled to her services and consortium, which he has lost and will continue to loss in the future as a result of the actions on the part of the defendant.

WHEREFORE, plaintiff, Dwayne Jackson, prays for judgment against the defendant, the United States of America, in the amount of Five Million Dollars (\$5,000,000.00), plus costs of suit.

THE LAW OFFICES OF STACI M. YANDLE, LLC

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